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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/613,256

07/03/2003

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1663-AI

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EXAMINER

AMIRI, NAHID

ART UNIT

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3679

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/613,256	<b>Applicant(s)</b> REICHERT, GERHARD	
	<b>Examiner</b> NAHID AMIRI	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 70-75 and 94-109 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 70-75 and 94-109 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/24/2009</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed 9/24/2009 in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/24/2009 has been entered. The application is not in condition for allowance in view of the new grounds of rejection set forth below. Claims 1-69 and 76-93 are canceled. Claims 70-75 and 94-109 are pending.

### ***Claim Objections***

Claims 94 and 105 are objected to because of the following informalities:

In claim 94 (lines 9 and 10) and claim 105 (lines 10 and 11), "the base wall" should be changed to --one of the base walls--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

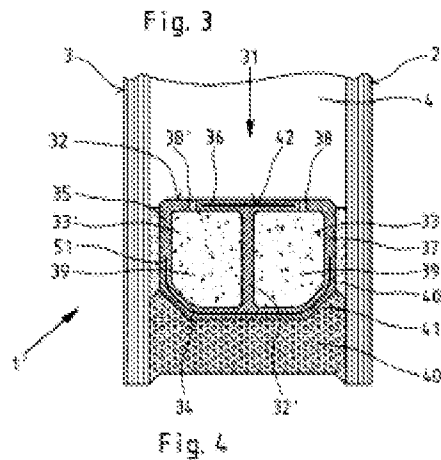
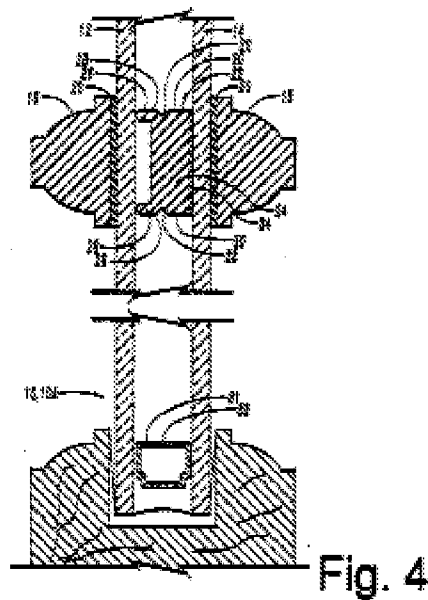
**Claims 70-75 and 94-109 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,345,743 Baier in view of US Patent No. 5,460,862 Roller.**

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With respect to claims 70-74, Baier discloses a simulated divided lite insulating glazing unit (Fig. 4) comprising first and second spaced glass panes (12, 14) spaced apart by a perimeter spacer (12), the first and second glass panes (12, 14) and spacer (12) defining a gap, a resilient foam internal muntin bar (22) disposed inside the gap the internal muntin bar (22) dividing the gap into separate portions to provide a divided-lite appearance to the glazing unit; the internal muntin bar (22) having a body having a longitudinal direction, the body having opposed base walls (24) separated by the height of the body; and wherein (column 2, lines 60-64) that the body of muntin bar (22) is fabricated from a foam polymer and the foam includes a desiccant, one of the base walls carrying an adhesive (34), the body being connected to an inner surface of one of the glass panes (12, 14) with the adhesive (34); and wherein the base wall of the body having the adhesive (34) defining a body width, the body width being greater than the body height.

Baier fails to disclose that the body defining at least one insulating cavity, the insulating cavity being surrounded by the body; and the body defines a plurality of insulating cavities; each of the insulating cavities being elongated in the longitudinal direction.

Roller teaches a window unit (Fig. 4) having glass panes (2, 3), a muntin bar (constituted by a spacing elements 31) between glass panes (2 and 3); the muntin bar (31) defining a body (32), wherein the body (32) defining at least one insulating cavity (33), the insulating cavity (33) being surrounded by the body (32); wherein the body (32) defining a plurality of insulating cavities (33, 33'); and the cavities (33, 33') are spaced apart from one another; the cavities contain a drying agent for absorbing and preventing moisture between the glass panes. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the muntin bar of Baier with a plurality of cavities containing a drying agent as taught by Roller in order to absorb and prevent moisture between the glass panes.



With respect to claims 75 and 100, Baier and Roller fail to disclose that each insulating cavity has a width, the space between the cavities being equal to or greater than the width of either cavity.

It is well known in the art that the insulating cavity come in variety of widths; also to have three elongated cavities instead of two for the reason well known in the art. Therefore, it would have been an obvious matter of design choice to provide different spaces between insulating cavities of Baier in view of Roller and provide the body with more than two insulating cavities such as three, since applicant has not disclosed that specific spacing and that specific number of insulating cavities solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with Roller's invention.

With respect to claims 94, Baier discloses a simulated divided-lite insulating glazing unit (Fig. 4) comprising first and second spaced glass panes (12, 14) spaced apart by a perimeter spacer (12), the first and second glass panes (12, 14) and spacer (12) defining a gap, a resilient foam internal muntin bar (22) disposed inside the gap; the internal muntin bar (22) dividing the gap into separate portions to provide a divided-lite appearance to the glazing unit; the internal muntin bar (22) having a body having a longitudinal direction; one of the base walls carrying an adhesive (34) that connects the base wall to an inner surface of one of the glass panes (12, 14),

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the base wall carrying the adhesive (34) defining a body width; and wherein the body material having a cross sectional area when measured along a cross section taken perpendicular to the longitudinal direction of the body.

Baier fails to disclose that the body defining at least one open insulating cavity; the insulating cavity having a cross sectional area measured along a cross section taken through the cavity perpendicular to the longitudinal direction of the body; the insulating cavity being surrounded by the body when viewed in cross section; and the body material being larger than the cross sectional area of the insulating cavity wherein the body is capable of being rolled into a roll for storage and shipping without the body being collapsed and then unrolled for application to the glass.

Roller teaches a window unit (Fig. 4) having glass panes (2, 3), a muntin bar (constituted by a spacing elements 31) between glass panes (2 and 3); the muntin bar (31) defining a body (32) having a base walls (35, 37), the base walls (35, 37) carrying an adhesive (40'), one of the base walls (35) carrying the adhesive (40') defining a body width; the body (32) defining at least one open insulating cavity (33); the insulating cavity (33) having a cross sectional area measured along a cross section taken through the cavity perpendicular to the longitudinal direction of the body (32); and the body material being larger than the cross sectional area of the insulating cavity (33); the cavities contain a drying agent for absorbing and preventing moisture between the glass panes. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the muntin bar of Baier with a plurality of cavities containing a drying agent as taught by Roller in order to absorb and prevent moisture between the glass panes.

With respect to claims 95-99, Baier fails to disclose that the insulating cavity is elongated in the longitudinal direction; the insulating cavity is continuous in the longitudinal direction; the body defines a plurality of insulating cavities, each of the insulating cavities being elongated in the longitudinal direction; the insulating cavities are spaced from one another with a portion of the body material disposed between each pair of cavities; and wherein the body defines three elongated insulating cavities.

Roller teaches (Fig. 4) that the insulating cavity (33) being surrounded by the body (32) when viewed in cross section; and the body material having a cross sectional area when

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measured along a cross section taken perpendicular to the longitudinal direction of the body (32); the insulating cavity (33) is elongated in the longitudinal direction; the insulating cavity (33) is continuous in the longitudinal direction; the body defines a plurality of insulating cavities (33, 33'), each of the insulating cavities (33, 33') being elongated in the longitudinal direction; the insulating cavities are spaced from one another with a portion (32') of the body material disposed between each pair of cavities (33, 33'); the cavities contain a drying agent for absorbing and preventing moisture between the glass panes. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the muntin bar of Baier with a plurality of cavities containing a drying agent as taught by Roller in order to absorb and prevent moisture between the glass panes.

It is well known in the art that the cross sectional area of the body material and insulating cavities come in variety sizes for the reason well known in the art. Therefore, it would have been an obvious matter of design choice to provide the body material and insulating cavities of Baier with specific cross section, since applicant has not disclosed those cross sections solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with Roller's invention.

With respect to claim 101, 102, 107, and 108, Baier discloses (column 2, lines 60-64) that the body being formed from a body material; wherein that the body of muntin bar (22) is fabricated from a foam polymer and the foam includes a desiccant.

With respect to claim 103, it should be noted that in a product-by process claim it is the patentability of the product, and not the recited process steps that is to be determined even if only process steps are recited. Accordingly, it is of little consequence how the foam body rolled into a roll for storage and shipping and then unrolled for application to the glass when a foam body is present.

With respect to claim 104 and 109, Baier fails to disclose that the body defines three elongated insulating cavities.

Roller teaches (Fig. 7) that the body defines three elongated insulting cavities (113a, 113b, 113 c); the cavities contain a drying agent for absorbing and preventing moisture between the glass panes. It would have been obvious to one of ordinary skill in the art at the time of

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invention was made to provide the muntin bar of Baier with a plurality of cavities containing a drying agent as taught by Roller in order to absorb and prevent moisture between the glass panes.

With respect to claims 105 and 106, it should be noted that in a product-by process claim it is the patentability of the product, and not the recited process steps, that is to be determined even if only process steps are recited. Accordingly, it is of little consequence how the foam body rolled into a roll for storage and shipping and then unrolled for application to the glass when a foam body is present.

As to claims 105 and 106, Baier discloses a simulated divided- lite insulating glazing unit (Fig. 4) comprising first and second spaced glass panes (12, 14) spaced apart by a perimeter spacer (12), the first and second glass panes (12, 14) and spacer (12) defining a gap, an internal muntin bar (22) disposed inside the gap; the internal muntin bar (22) dividing the gap into separate portions to provide a divided-lite appearance to the glazing unit; the internal muntin bar (22) having a body having a longitudinal direction; the body having opposed base walls separated by the height of the body; one of the base walls carrying an adhesive (34) that connects the base wall to an inner surface of one of the glass panes (12, 14), the base wall carrying the adhesive (34) defining a body width.

Baier fails to disclose that the body defining a plurality of insulating cavity; each of the insulating cavities being elongated in the longitudinal direction; each insulating cavity being surrounded by the body material when viewed in cross section; each pair of insulating cavities being spaced from one another with a portion of the body material; and each insulating cavity having a width of either insulating cavity and each insulating cavity is continuous in the longitudinal direction.

Roller teaches a window unit (Fig. 4) having glass panes (2, 3), a muntin bar (constituted by a spacing elements 31) between glass panes (2 and 3); the muntin bar (31) defining a body (32) defining a plurality of insulating cavities (33, 33'); each of the insulating cavities (33, 33') being elongated in the longitudinal direction; each insulating cavity (33, 33') being surrounded by the body material when viewed in cross section; each pair of insulating cavities (33, 33') being spaced from one another with a portion of the body material and each insulating cavity (33, 33') having a width of either insulating cavity (33, 33) and each insulating cavity (33, 33')



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having a width of either insulating cavity (33, 33') and each insulating cavity (33, 33') is continuous in the longitudinal direction; the cavities contain a drying agent for absorbing and preventing moisture between the glass panes. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the muntin bar of Baier with a plurality of cavities containing a drying agent as taught by Roller in order to absorb and prevent moisture between the glass panes.

### ***Response to Arguments***

Applicant's arguments with respect to claims 70-75 and 94-109 have been considered but are moot in view of the new ground(s) of rejection.

Examiner acknowledges that in previous Office action various claims were not rejected. Therefore, in this Office action Examiner properly includes a rejection of those claims.

Applicant argues on page 9, of his remarks, that because a restriction was previously required in this application between claims drawn a muntin bar and claims drawn to a spacer, then this means that no teaching involving features found in a spacer may be applied to a muntin bar because the two elements are patentably distinct.

This argument is not persuasive. Specifically, it should be noted that restriction practice pertains to the claims of any one application wherein two or more independent and distinct inventions are claimed in the application. "Restriction" is the practice of requiring applicant to elect a single one of these inventions. Further, restriction may be properly required when the claims of an application define inventions, which are able to support separate patents. A restriction between two such claimed inventions in a single application neither implies nor results in the entire body of prior art references for the non-elected invention being disqualified from consideration when considering the patentability of the elected invention. Accordingly, the fact that there was a restriction in this application is of little consequence and has no bearing on the propriety of the combination of references relied upon to reject claims drawn to the elected invention.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art of record US Patent No. 5,260,112 Grether, deceased et al.; US Patent No. 6,537,629 B1 Ensinger; US Patent No. 6,989,188 B2 Brunnhofer et al.; US Patent No. 6,389,779 B1 Brunnhofer; are cited to show a glazing unit.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (571) 272-8113. The examiner can normally be reached on 8:30-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nahid Amiri  
Examiner  
Art Unit 3679  
November 17, 2009

/Michael P. Ferguson/  
Primary Examiner, Art Unit 3679